



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

BLUE RIDGE REGIONAL OFFICE
901 Russell Drive, Salem, Virginia 24153
(540) 562-6700 FAX (804) 698-4178
www.deq.virginia.gov

Travis An. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Robert J. Weld
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
DUTT EXPORT INC.
FOR
SANDSTONE QUICK MART
Facility ID No. 2020003**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Dutt Export Inc., for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, Virginia.
3. "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Dutt Export Inc." means Dutt Export Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Dutt Export Inc. is a "person" who owns and operates the Facility.
7. "Facility" means the physical location where the UST and/or UST system is installed and/or operated, known as Sandstone Quick Mart located at 2930 Radford Road in Christiansburg, Virginia. The Facility's UST and/or UST system are owned and operated by Dutt Export Inc., and the Facility is further identified by UST Facility ID# 2020003.
8. "Form 7530-2" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
13. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
14. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
15. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*

16. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
18. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Dutt Export Inc. is the owner and operator of the Facility. Dutt Export Inc. stores a regulated substance in the form of gasoline and diesel in USTs at the Facility.
2. On August 08, 2018, Department staff inspected the Facility and conducted a file review of Facility records to evaluate the Dutt Export Inc.'s compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were five USTs at the Facility: Tank 1 is 4,000 gallon diesel UST; Tank 2M is 4,000 gallon gasoline UST; Tank 3 is 2,000 gallon gasoline UST; Tank 4 is 8,000 gallon gasoline UST; Tank 5M is 6,000 gallon gasoline UST. DEQ staff observed the following:
 - a. Complete documentation was not provided to demonstrate that release detection records were maintained for Tanks 1, 2M, 3, 4 and 5M. Specifically, records were not provided for the most recent eight (8) consecutive months of 'passing' release detection for underground petroleum storage tanks #1, #2M, #3, #4 and # 5M.
 - b. Complete documentation was not provided to demonstrate that release detection records were maintained for line tightness testing (LTT) for piping associated with Tanks 1, 2M, 3, 4 and 5M. Specifically, records were not provided for the most recent annual line tightness testing showing 'passing' results.

3. 9 VAC 25-580-50(6) and -60(5) states that release detection shall be provided in accordance with Part IV (9VAC25-580-130 et seq.) of this chapter.
4. 9 VAC 25-580-130 requires that owners and operators must provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product.
5. 9 VAC 25-580-140 requires that owners and operators of petroleum UST systems must provide release detection for tanks and piping in accordance with the requirements of that section.
6. 9 VAC 25-580-180 requires that UST system owners and operators must maintain records in accordance with 9VAC25-580-120, including results of any sampling, testing, or monitoring, for at least one year, either at the facility and immediately available for inspection or at a readily available alternative site and available for inspection upon request.
7. On November 30, 2018, the Department sent Warning Letter No. TBRR0229136 for the violations listed in paragraphs C2 through C6 above. The Warning Letter requested that Dutt Export Inc. respond in writing by February 8, 2019.
8. On January 10, 2020, the Department issued Notice of Violation No. TBRRO262036 to the Dutt Export Inc. for violations listed in paragraphs C2 through C6 above.
9. On June 23, 2021, Department staff inspected the Facility and conducted a file review of Facility records to evaluate the Dutt Export Inc.'s compliance with the requirements of the State Water Control Law and the Regulations. DEQ staff observed the following:
 - a. Automatic Tank Gauging records were not immediately available for Tanks 1M, 2, 3, 4, 5M for inspection or at a readily available alternative site, and were not made available upon request. No information had been provided to DEQ that an alternative method of tank release detection is employed at the facility.
 - b. The facility contact during the inspection and review of the available records indicated that the annual functionality test had not been conducted on the automatic line leak detectors for the piping associated with Tanks 2, 4, 5M, Documentation of the required testing was not immediately available for review or at a readily available alternative site, and was not made available upon request.
 - c. A review of the most recent line tightness test record indicated that the test was not conducted within the past year for the piping associated with Tanks 2, 4, 5M, and was not made available upon request. No information had been provided to DEQ that an alternative method of pipe release detection is employed at the facility.

- d. Statements made by the facility contact during the inspection and a review of the available records indicated the cathodic protection system for Tanks 1M, 2, 3, 4, 5M have not been tested in the past three years.
- e. Proper Class A operator training documentation was not provided at the time of inspection, and the documents were not made available upon DEQ's request.
- f. Proper Class B operator training documentation was not provided at the time of inspection, and the documents were not made available upon DEQ's request.
- g. A current list of designated Class A, Class B and Class C operators was not provided at the time of the inspection and the list was not made available upon DEQ's request.
- h. Proper Class C operator training documentation was not provided at the time of inspection, and the documents were not made available upon DEQ's request.
- i. Statements made by the facility contact during the inspection indicated the cathodic protection system for the piping has not been tested in the past three years.
- j. Statements made by the facility contact during the inspection and a review of the available records, the overfill prevention devices associated with Tanks 1M, 2, 3, 4, 5M have not been inspected. Documentation of the required inspection was not immediately available for review or at a readily available alternative site, and was not made available upon request.
- k. Statements made by the facility contact during the inspection and a review of the available records, the spill prevention devices associated with Tanks 1M, 2, 3, 4, 5M have not been tested. Documentation of the required testing was not immediately available for review or at a readily available alternative site, and was not made available upon request.
- l. Statements made by the facility contact during the inspection and a review of available records, walkthrough inspections were not being conducted every 30 days. Documentation of the required inspections was not immediately available for review or at a readily available alternative site, and was not made available upon request.
- m. Statements made by the facility contact during the inspection and a review of available records, walkthrough inspections were not being conducted annually. Documentation of the required inspections was not immediately available for review or at a readily available alternative site, and was not made available upon request.

- n. Statements made by the facility contact during the inspection indicated that the piping release detection equipment for Tanks 2, 4, 5M have not been tested in the past year in accordance with Page 8 of 10 of the manufacturer's instructions or an industry standard. Piping release detection equipment test results were not immediately available for inspection or at a readily available alternative site, and were not made available upon request.
 - o. Department staff observed the alarm light was on for the automatic tank gauging system, there was no response to this alarm by staff at the facility and the printer for the automatic tank gauging system was out of paper.
- 10. 9 VAC 25-580-50(6) and -60(5) states that release detection shall be provided in accordance with Part IV (9VAC25-580-130 et seq.) of this chapter.
 - 11. 9 VAC 25-580-130 requires that owners and operators must provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product.
 - 12. 9 VAC 25-580-140 requires that owners and operators of petroleum UST systems must provide release detection for tanks and piping in accordance with the requirements of that section.
 - 13. 9 VAC 25-580-180 requires that UST system owners and operators must maintain records in accordance with 9VAC25-580-120, including results of any sampling, testing, or monitoring, for at least one year, either at the facility and immediately available for inspection or at a readily available alternative site and available for inspection upon request.
 - 14. 9 VAC 25-580-170(1) requires an annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.
 - 15. 9 VAC 25-580-120(2)(f) requires owners and operators must maintain the following information: Documentation of compliance with release detection requirements (9VAC25-580 -180).
 - 16. 9 VAC 25-580-120(3) requires that results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
 - 17. 9 VAC 25-580-90(1) requires all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
 - 18. 9 VAC 25-580-90(2) requires all UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection

tester within six months of installation and at least every three years thereafter in accordance with a code of practice developed by a nationally recognized association.

19. 9 VAC 25-580-90(4) requires UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 9VAC25-580-120) to demonstrate compliance with the performance standards in this section, and must provide the results of testing from the last two inspections required in 90.2.
20. 9 VAC 25-580-125(C)(1) requires Class A operators shall successfully complete a training course approved by the board that includes a general knowledge of UST system requirements. Training shall provide information that should enable the operator to make informed decisions regarding compliance and ensuring that appropriate persons are fulfilling operation, maintenance, and recordkeeping requirements and standards of this chapter and/or federal underground storage tank requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks).
21. 9 VAC 25-850-125(D)(2) requires that after August 8, 2012, when a Class A or B operator is replaced, a new operator shall be trained within 60 days of assuming the duties for that class of operator.
22. 9 VAC 25-580-125(F) requires owners and operators of underground storage tank facilities shall prepare and maintain a list of designated Class A, Class B, and Class C operators. The list shall represent the current Class A, Class B, and Class C operators for the UST facility. A copy of the certificates of training for Class A and Class B operators shall be on file as long as each operator serves in that capacity at the facility or three years, whichever is longer, and readily available and a copy of the facility list of Class A, Class B, and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for manned UST facilities and readily available for unmanned facilities.
23. 9 VAC 25-580-120(2)(h) requires owners and operators must maintain documentation of operator training required by 9VAC25-580-125, including verification of training for current Class A, Class B, and Class C operators, and a current list of operators and written instructions or procedures for Class C operators in accordance with 9VAC25-580-125 (relating to operator training).
24. 9 VAC 25-580-125(C)(2) requires Class B operators shall successfully complete a training course approved by the board that includes an in-depth understanding of operation and maintenance aspects of UST systems and related regulatory requirements. Training shall provide specific information on the components of UST systems, materials of construction, methods of release detection and release prevention applied to UST systems and components. Training shall address operation and maintenance requirements of this chapter and/or federal underground storage tank requirements in 40 CFR Part 280.
25. 9 VAC 25-580-125(B) requires owners and operators of petroleum UST systems shall designate Class A, Class B, and Class C operators for each UST system or facility that has underground storage tanks.

26. 9 VAC 25-580-125(C)(3) requires that at a minimum, training provided by the tank owner or Class A or Class B operator shall enable the Class C operator to take action in response to emergencies caused by spills or releases and alarms from an underground storage tank. Training shall include written instructions or procedures for the Class C operator to follow and to provide notification necessary in the event of emergency conditions.
27. 9 VAC 25-580-125(D)(3) requires Class C operators shall be trained before assuming duties of a Class C operator. After September 15, 2010, written instructions or procedures shall be provided to Class C operators to follow and to provide notification necessary in the event of emergency conditions. Class C operators shall be briefed on these instructions or procedures at least annually (every 12 months), which may be concurrent with annual safety training required under Occupational Safety and Health Administration, 29 CFR Part 1910 (relating to Occupational Safety and Health Standards).
28. 9 VAC 25-580-90(1) requires all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
29. 9 VAC 25-580-90(2) requires all UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester within six months of installation and at least every three years thereafter in accordance with a code of practice developed by a nationally recognized association.
30. 9 VAC 25-580-90(4) requires that UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 9VAC25-580-120) to demonstrate compliance with the performance standards in this section, and must provide the results of testing from the last two inspections required in 90.2 section.
31. 9 VAC 25-580-50(3)(d) requires spill and overfill protection equipment must be periodically tested or inspected in accordance with 9VAC35-580.82.
32. 9 VAC25-580-82 (B) requires owners and operators must begin meeting these requirements as follows: 1. For UST systems in use before January 1, 2018, the initial spill prevention equipment test, containment sump test, and overfill prevention equipment inspection must be conducted not later than January 1, 2021. 2. For UST systems brought into use on or after January 1, 2018, these requirements apply at installation.
33. 9 VAC 25-580-82(C)(1) requires owners and operators must maintain records as follows in accordance with 9VAC25-580-120 for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment: 1. All records of testing or inspection must be maintained for three years.
34. 9 VAC 25-580-120(2)(d) requires owners and operators must maintain the following information: d. Documentation of compliance and applicable installation records for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (subsection C of 9VAC25-580-82).

35. 9 VAC 25-580-120(3) requires these results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
36. 9 VAC25-580-50(3)(d) requires spill and overfill protection equipment must be periodically tested or inspected in accordance with 9VAC35-580.82.
37. 9 VAC25-580-82(A)(1) requires spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following: a. The equipment is double walled and the integrity of both walls is periodically monitored as described in 9VAC25-580-85 A 1 a (1) at a frequency not less than the frequency of the walkthrough inspections described in 9VAC25-580-85. Within 30 days of discontinuing periodic monitoring under this subdivision, owners and operators must conduct a test in accordance with subdivision A 1 b of this section and begin meeting the requirements of that subdivision; or b. The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria: (1) Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); (2) Code of practice developed by a nationally recognized association or independent testing laboratory; or (3) Requirements determined by the board to be no less protective of human health and the environment than the requirements listed in subdivisions A 1 b (1) and (2) of this section.
38. 9 VAC 25-580-82(B) requires owners and operators must begin meeting these requirements as follows: 1. For UST systems in use before January 1, 2018, the initial spill prevention equipment test, containment sump test, and overfill prevention equipment inspection must be conducted not later than January 1, 2021. 2. For UST systems brought into use on or after January 1, 2018, these requirements apply at installation.
39. 9 VAC25-580-82(C) requires Owners and operators must maintain records as follows in accordance with 9VAC25-580-120 for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment: 1. All records of testing or inspection must be maintained for three years; and 2. For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.
40. 9 VAC25-580-120(2)(d) requires owners and operators must maintain the following information: d. Documentation of compliance and applicable installation records for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (subsection C of 9VAC25-580-82).

41. 9 VAC25-580-120(3) requires these results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
42. 9 VAC 25-580-85(A) requires to properly operate and maintain UST systems, not later than January 1, 2021, owners and operators must meet one of the following: 1. Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below: a. Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery): (1) Spill prevention equipment – visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and, for double walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and (2) Release detection equipment – check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present and ensure records of release detection testing are reviewed and current; 2. Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to subdivision 1 of this subsection; or 3. Conduct operation and maintenance walkthrough inspections according to a protocol developed by the board that checks equipment comparable to subdivision 1 of this subsection.
43. 9 VAC 25-580-85(B) requires Owners and operators must maintain records (in accordance with 9VAC25-580-120) of operation and maintenance walkthrough inspections for one year. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.
44. 9 VAC 25-580-120(2)(e) requires owners and operators must maintain the following information: Documentation of periodic walkthrough inspections (subsection B of 9VAC25-580-85).
45. 9 VAC 25-580-120(3) requires these results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
46. 9 VAC25-580-85(A) requires to properly operate and maintain UST systems, not later than January 1, 2021, owners and operators must meet one of the following: 1. Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below: b. Annually: (1) Containment sumps – visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double walled sumps with interstitial monitoring, check for a leak in the interstitial area; and (2) Handheld release detection equipment – check devices such as tank gauge sticks or groundwater bailers for operability and serviceability.
47. 9 VAC 25-580-130(A)(3) requires Owners and operators of UST systems must provide a method, or combination of methods, of release detection that: beginning on January 1, 2021, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: (i) manufacturer's

instructions; (ii) a code of practice developed by a nationally recognized association or independent testing laboratory; or (iii) requirements determined by the board to be no less protective of human health and the environment than the two options listed in subdivisions 1 and 2 of this subsection. A test of the proper operation must be performed at least annually.

48. 9 VAC 25-580-190 requires Owners and operators of UST systems to report to the board within 24 hours of observing unusual operating conditions.
49. On September 22, 2021, the Department sent Warning Letter No. TBRRO318976 for the violations listed in paragraphs C9 through C47 above. The Warning Letter requested that Dutt Export Inc. respond in writing by October 22, 2021. Dutt Export Inc. did not respond.
50. On November 17, 2021, Department staff from the Office of Financial Responsibility conducted a file review to evaluate Dutt Export Inc.'s compliance with the requirements of the State Water Control Law and the Regulations.
 - a. No financial assurance mechanism is on file to demonstrate financial responsibility and no mechanism has been provided in the past four years.
51. 9 VAC 25-590-40(A) requires owners or operators of petroleum USTs to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
52. 9VAC 25-590-160(A) required owners and operators to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility at the UST site or the owner's or operator's place of work in this Commonwealth and be made available upon request.
53. Based on the results of the August 08, 2018 and June 23, 2021 inspections, and the November 17, 2021 file review, the Board concludes that Dutt Export Inc. has violated 9 VAC 25-580-50(6); 9 VAC 25-580-60(5); 9 VAC 25-580-130; 9 VAC 25-580-140; 9 VAC 25-580-180; 9 VAC 25-580-170(1); 9 VAC 25-580-120(2)(f); 9 VAC 25-580-120(3); 9 VAC 25-580-90(1); 9 VAC 25-580-90(2); 9 VAC 25-580-90(4); 9 VAC 25-580-125(C)(1); 9 VAC 25-850-125(D)(2); 9 VAC 25-580-125(F); 9 VAC 25-580-120(2)(h); 9 VAC 25-580-125(C)(2); 9 VAC 25-580-125(B); 9 VAC 25-580-125(C)(3); 9 VAC 25-580-125(D)(3); 9 VAC 25-580-90(1); 9 VAC 25-580-90(2); 9 VAC 25-580-90(4); 9 VAC 25-580-50(3)(d); 9 VAC25-580-82 (B); 9 VAC 25-580-82(C)(1); 9 VAC 25-580-120(2)(d); 9 VAC 25-580-120(3); 9 VAC25-580-50(3)(d); 9 VAC25-580-82(A)(1); 9 VAC 25-580-82(B); 9 VAC25-580-82(C); 9 VAC25-580-120(2)(d); 9 VAC25-580-120(3); 9 VAC 25-580-85(A); 9 VAC 25-580-85(B); 9 VAC 25-580-120(2)(e); 9 VAC 25-580-120(3); 9 VAC25-580-85(A); 9 VAC 25-580-130(A)(3), 9 VAC 25-590-40(A), 9VAC 25-590-160(A), 9VAC 25-590-190 as described in

paragraphs C2 through C6, paragraphs C9 through C48, and paragraphs C50 through C52 above.

54. In order for Dutt Export Inc. to return to compliance, DEQ staff and representatives of Dutt Export Inc. have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Dutt Export Inc., and Dutt Export Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$26,033 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
June 1, 2022	\$2169.42 or balance
September 1, 2022	\$2169.42 or balance
December 1, 2022	\$2169.42 or balance
March 1, 2023	\$2169.42 or balance
June 1, 2023	\$2169.42 or balance
September 1, 2023	\$2169.42 or balance
December 1, 2023	\$2169.42 or balance
March 1, 2024	\$2169.42 or balance
June 1, 2024	\$2169.42 or balance
September 1, 2024	\$2169.38 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Dutt Export Inc. Within 15 days of receipt of such letter, Dutt Export Inc. shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
4. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality

Post Office Box 1104
Richmond, Virginia 23218

5. Dutt Export Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dutt Export Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Dutt Export Inc. for good cause shown by Dutt Export Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. TBRRO262036 dated January 10, 2020 and in Warning Letter No. TBRRO318976 dated September 22, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Dutt Export Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Dutt Export Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dutt Export Inc. declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dutt Export Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dutt Export Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dutt Export Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dutt Export Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Dutt Export Inc. Nevertheless, Dutt Export Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Dutt Export Inc. has completed all of the requirements of the Order;
 - b. Dutt Export Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dutt Export Inc.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dutt Export Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Dutt Export Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Dutt Export Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dutt Export Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dutt Export Inc.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dutt Export Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7 day of July, ²⁰²²~~2021~~ ^{RI}


Robert J. Weld, Regional Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

Dutt Export Inc. voluntarily agrees to the issuance of this Order.

Date: 04/13/22 By: [Signature], OWNER
(Person) (Title)
Dutt Export Inc.

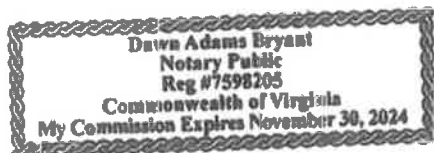
Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 13th day of Apr. 1, 2022 by Mukesh Patel who is
of Dutt Export Inc., on behalf of the corporation.

[Signature]
Notary Public

7598205
Registration No.



My commission expires: 11/30/2024

Notary seal:

APPENDIX A

SCHEDULE OF COMPLIANCE

1. Registration

- a. Not later than (30) thirty days after the effective date of this Consent Order, Dutt Export Inc. shall submit to DEQ a completed Notification for Underground Storage Tanks (USTs), Form 7530-2, in accordance with 9 VAC 25-580-70, reflecting the current ownership and/or status of the USTs.

2. Financial Assurance

- a. Not later than (30) thirty days after the effective date of this Consent Order, Dutt Export Inc. shall submit to DEQ documentation that the Facility has in place a financial assurance mechanism that meets the requirements of 9 VAC 25-590-40(A) and -50.

3. Release Detection

- a. Not later than (30) thirty days after the effective date of this Consent Order, Dutt Export Inc. shall test, and/or repair the necessary equipment to conduct adequate release detection in accordance with 9 VAC 25-580-130 and 9 VAC 25-580-140.
- b. Not later than (60) sixty days after the effective date of this Consent Order, Dutt Export Inc. shall submit documentation to DEQ verifying that the Automatic Tank Gauge (ATG) system was properly installed in accordance with 9 VAC 25-580-120 and submit valid, passing ATG monitoring results confirming that the USTs are being monitored in accordance with 9 VAC 25-580-140 and 9 VAC 25-580-160(8) and that records are maintained in accordance with 9 VAC 25-580-120 and 9 VAC 25-580-180.
- c. Not later than (30) thirty days after the effective date of this Consent Order, Dutt Export Inc. shall have qualified contractor test the automatic line leak detector(s) for tanks 1M, 2, 3, 4, 5M in accordance with 9 VAC 25-580-50(6); 9 VAC 25-580-60(5); 9 VAC 25-580-120(2)(f); 9 VAC 25-580-120(3); 9 VAC 25-580-130; 9 VAC 25-580-140; 9 VAC 25-580-170(1); 9 VAC 25-580-180.
- d. Not later than (60) sixty days after the effective date of this Consent Order, Dutt Export Inc. shall submit copies of all release detection records and all results on the 10th day of each month for a period of twelve months immediately following the effective date of this Order to DEQ in accordance with 9 VAC 25-580-120 and 9 VAC 25-580-180.

In the event of an “inconclusive” or “failed” result, Dutt Export Inc. shall: (1) immediately consult with a third party vendor to assess the possible causes for the inconclusive and/or failed test result; (2) make the necessary changes to reduce the possibility of having future

inconclusive and/or failed results; and (3) within (30) days of the third party vendor assessment submit the written results to DEQ of the investigation detailing the cause of the inconclusive and/or failed results and what Dutt Export Inc. has done to correct the situation at the Facility. Dutt Export Inc. shall implement the procedures in accordance with 9 VAC 25-580-190.

4. Operator Training

- a. Not later than (30) days after the effective date of this Consent Order, Dutt Export Inc. shall submit to DEQ the following in accordance with 9 VAC 25-580-120, and -125:
 - i) training certificates for the Facility's Class A and B Operators;
 - ii) training documentation for all of the Facility's Class C operators;
 - iii) a list of the Facility's designated operators; and
 - iv) emergency procedures and instructions kept on-site for Class C operators.

All training documentation submitted shall verify that training has been conducted in accordance with 9 VAC 25-580-125.

5. Spill and Overfill Prevention Testing

- a. Not later than (30) thirty days after the effective date of this Consent Order, Dutt Export Inc. shall submit to DEQ test records of spill and overfill prevention testing conducted in accordance with 9 VAC 25-580-82.
- a. If any testing conducted in accordance with Paragraph 2(a) above identifies a failing or inconclusive result or defect of the spill or overfill prevention devices, within 10 days of such result Dutt Export Inc. shall submit to DEQ a description of all corrective action taken and, if further corrective action is needed, a corrective action plan to bring the Facility into compliance within 30 days from the date the plan is submitted.

6. Walkthrough Inspections

- a. Not later than 30 thirty days after the effective date of this Consent Order, Dutt Export Inc. shall submit to DEQ the results of an annual walkthrough inspection in accordance with 9 VAC25-580-85(A); 9 VAC25-580-120(2)(e); 9 VAC25-580-120(3)
- b. Not later than (60) sixty days after the effective date of this Consent Order, and continuing for (12) twelve months after the effective date of this Consent Order, Dutt Export Inc. shall complete monthly walkthrough inspections in accordance with 9 VAC 25-580-85 and submit a copy of the inspection report to DEQ within 10 days of the inspection date.

- c. If any walkthrough inspection conducted in accordance with Paragraph 7(a) above identifies non-compliance at the Facility, Dutt Export Inc. shall submit along with the inspection report a description of all corrective action taken and, if further corrective action is needed, a corrective action plan to bring the Facility into compliance within 30 days from the date the plan is submitted. Dutt Export Inc. shall respond to any DEQ comments on the corrective action plan within 10 days of DEQ's comment.

7. DEQ Contact

Unless otherwise specified in this Order, Dutt Export Inc. shall submit all requirements of Appendix A of this Order to:

Michelle R. Callahan
Land Protection and Revitalization Enforcement Manager
Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, VA 23219
Phone: 804-698-4014
Michelle.Callahan@deq.Virginia.gov

